

The Texas Board of Professional Engineers (TBPE) has posted proposed new rules to implement changes made in the 82nd Special Legislative Session, which requires the Board to establish a list of professional engineers who are qualified to perform engineering services related to design of structures in windstorm areas. The TBPE proposed rules can be found at www.tbpe.state.tx.us. The deadline for comments is October 6, 2011.

TBPE has the proposal posted as follows:

§137.19 - The proposed new rule implements changes made in the 82nd Special Legislative Session, which requires the Board to establish a list of professional engineers who are qualified to perform engineering services related to design of structures in windstorm areas.

CHAPTER 137. COMPLIANCE AND PROFESSIONALISM SUBCHAPTER A. INDIVIDUAL AND ENGINEER COMPLIANCE
22 TAC §137.19

The Texas Board of Professional Engineers (Board) proposes new §137.19, regarding Engineers Qualified to be Texas Windstorm Inspectors.

The proposed new rule implements changes made to the Texas Engineering Practice Act by House Bill 3 in the 82nd Special Legislative Session, which requires the Board to establish a list of professional engineers who are qualified to perform engineering services related to design of structures in windstorm areas. Only professional engineers on this roster will be allowed to request appointment by the Texas Department of Insurance as Qualified Windstorm Inspectors.

David Howell, P.E., Director of Licensing for the Board, has determined that for the first five-year period the proposed new rule is in effect there is no adverse fiscal impact for the state and local government as a result of enforcing or administering the section as proposed. There is no additional cost to licensees or other individuals. There is no adverse fiscal impact to the estimated 1,000 small or 6,400 micro businesses regulated by the Board. A Regulatory Flexibility Analysis is not needed because there is no adverse economic effect to small or micro businesses.

Mr. Howell also has determined that for the first five years the proposed new section is in effect, the public benefit anticipated as a result of enforcing the proposal is an improvement in the records of the agency regarding licensed engineers.

The new rule is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state and §1001.652 regarding Qualifications; Roster. No other statutes, articles or codes are affected by the proposed new section.

Proposed Language

§137.19. Engineers Qualified to be Texas Windstorm Inspectors.

(a) Pursuant to §1001.652 of the Act, the board shall create and maintain a roster of windstorm inspector candidates composed of licensed engineers who have demonstrated the knowledge, understanding, and professional competence to be qualified to provide engineering design services related to compliance with applicable windstorm certification standards under Subchapter F, Chapter 2210, Insurance Code.

(b) To be considered qualified for the roster described under subsection (a) of this section, a licensed engineer must demonstrate sufficient competence in each of the following subject areas:

(1) Applicable building codes and design standards for the design and construction of buildings or other structures located in high wind areas; (2) Determination of wind loads on buildings and other structures; (3) Lateral wind load resisting systems; (4) Vertical wind load resisting systems; (5) Wood frame structure design; (6) Roof and wall framing connections to the foundation; (7) Foundation design; and (8) Roof cladding and exterior wall cladding design. (c) A license holder may request that the Executive Director or designee review his or her competency to be placed on the roster in subsection (a) of this section. In order to be approved to be placed on the roster, a licensed engineer must:

(1) Receive a passing score on the Wind Design Competence Verification, and

(2) Demonstrate competence in the subject areas specified in subsection (b) of this section by providing one or more of the following:

(A) a transcript from an institution listed in §133.31(a) of this chapter (relating to Educational Requirements for Applicants) showing coursework in the subject area;

(B) a supplementary experience record documenting at least 2 years of experience in the subject area verified by at least one PE reference provider who has documented competence in a related engineering discipline; or
(C) verification of successful passage of a principles and practice of engineering examination as specified in §133.67 of this chapter (relating to Examination on the Principles and Practice of Engineering), which tests competence in the subject area.

(d) The Wind Design Competence Verification shall be self-administered by the applicant and shall be furnished by the board. The verification will consist of questions to verify an applicant's knowledge in applicable building codes and design standards for the design and construction of buildings or other structures located in high wind areas. Each licensee requesting to be placed on the roster in subsection (a) of this section must submit this verification in a format prescribed by the board with the request and must receive a score of at least 90%.

(e) If the Executive Director or designee determines that the licensed engineer has not demonstrated sufficient competency as set forth above to be placed on the roster, the licensed engineer shall be notified of the denial and the reasons therefore.

(1) Within 15 working days after receiving the notice, which shall be sent by verifiable means of delivery, the licensed engineer may file a response addressing the reasons for the denial.

(2) If no response is received with fifteen working days, the decision is final effective the following day.

(3) If a response is timely received, the Executive Director or designee will consider the matters presented in the response and may either place the licensed engineer on the roster or affirm the denial on the roster. The licensed engineer will be notified by the same means specified in paragraphs (1) and (2) of this subsection.

(4) Any candidate may appeal the roster denial decision to the Board. Board review of and action on the roster denial decision shall be in accordance with §133.93 of this chapter (relating to Personal Interviews of Applicants).

(f) A licensed engineer may be removed from the roster in subsection (a) of this section for any violation of the Texas Engineering Practice Act or Board rules. A removal action is subject to and will be governed by the provisions and procedures in Chapter 139 of this title (relating to Enforcement).

(g) If a licensed engineer is removed from the roster under subsection (a) of this section, a licensed engineer may reapply to be on the roster. To be reinstated on the roster, the licensed engineer must be in good standing with TDI and the Board, have no pending or ongoing enforcement actions with either TDI or the Board, and provide additional documentation or other information sufficient to demonstrate that reinstatement to the roster serves the public interest.

Any comments pertaining to this proposed rule may be submitted prior to October 6, 2011 to the Texas Board of Professional Engineers at:

rules@tbpe.state.tx.us, 1917 IH-35 South, Austin, Texas 78741 or faxed to (512) 440-0417.